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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3	2483

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EXAMINER

HUNTER, ALVIN A

ART UNIT PAPER NUMBER

3711

21

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,835

Applicant(s)

NESBITT, R. DENNIS

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 depends from claim 10, which has been cancelled. Claim 19 depends from claim 11. It is not clear as to what claim 11 is to depend from and, therefore, has been rejected. For examination purposes, claim 11 will be treated as being dependent upon claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9, 11-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin et al. (USPN 5779562).

Melvin et al. discloses a multi-core, multi-cover golf ball having a core comprised of a center core layer and outer core layer and a cover comprised of an inner and outer cover layer (See Abstract). The center core layer and the outer core layer is made of

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polybutadiene any may also contain other types of materials such as a thermoset rubber or a thermoset elastomer material (See Column 5, lines 11 through 51). The polybutadiene comprises zinc diacrylate as the crosslinking agent (See Column 6, lines 1 through 11). The center core layer has a diameter of about 10 to 35mm, or .0394 to 1.378 inches, and the outer core layer has a diameter of about 30 to 40mm, 1.181 to 1.575 inches (See Column 9, lines 20 through 28). The disclosure implicitly shows that the outer core layer has a thickness of about 2.5 to 10mm, or 0.098 to 0.394 inches. The outer core also has a Shore C hardness of less than 80, or less than about 53 Shore D. The inner and outer cover layers both comprise ionomer resin (Column 12, lines 41 through 47; and paragraph bridging Column 14 and 15). The inner cover layer is harder than the outer cover layer wherein the inner cover layer has a Shore D hardness of 60 or more and the outer cover layer has a Shore D hardness of 55 or less (See Column 12, lines 30 through 40; and paragraph bridging Column 14 and 15). Melvin et al. does not disclose having a center component softer than the core layer. Yamagishi et al. discloses a four piece golf ball having a dual core wherein the inner sphere is softer than the surrounding layer, wherein the surrounding layer has a Shore D hardness of 45 to 80, (See paragraph bridging Column 2 and 3 and Column 4, lines 21 through 32). The core construction allows for improved restitution and soft hitting feel. One having ordinary skill in the art would have found it obvious to have the inner sphere softer than the surrounding layer, as taught by Yamagishi et al., in order to improved restitution and hitting feel.

Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin et al. (USPN 5779562) in view of Yamagishi et al. (USPN 5688595) further in view of Farrally et al. (Science and Golf III).

Melvin et al. does not disclose the outer core layer having two or more layers. Farrally et al. discloses that having a core more than two layers is advantageous for controlling the weight distribution of the golf ball (See Page 411). One having ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a core layer with two or more layers in order to optimize the weight distribution and specific gravity of the golf ball. Farrally et al. has been substituted in place of the OFFICIAL NOTICE made in the previous office action and, therefore, does not constitute new art.

Response to Arguments

Applicant's arguments filed December 9, 2003 have been fully considered but they are not persuasive. Applicant argues that prima facie obviousness has not been established because the cover layers of Yamagishi et al. are different from that of Melvin et al. and that Farrally et al. fails to assert that having more than two layers are beneficial to golf balls. The examiner disagrees. Yamagishi et al. was not used to teach cover hardness, only the core relationship. The inner and outer covers of Yamagishi et al. are not of issue here. Yamagishi et al. teaches a benefit of having a softer inner core than the outer core (rationale). 35 U.S.C. 103 only requires motivation, not anticipation. For this reason, examiner sustains the rejection of claims 1-3, 5-16, 19, and 20.

In regards to Farrally et al., the above applies. 35 U.S. C. 103 only requires motivation, not anticipation. Farrally et al. teaches the benefit of having two or more core layers (rationale). Farrally et al. does refer to "rockets" which are triple layered core as implicitly being related to double cores. For this reason, examiner also sustains rejections of claims 4 and 17.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time. SEE MPEP 713.09. Examiner will not entertain interviews after final for argumental purposes or to discuss additional language.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Garbe, can be reached on 703-308-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAH

Alvin A. Hunter, Jr.


Stephen P. Garbe
Primary Examiner